

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

WALTER DERRICO,	)	CASE NO: 1:17CV866
	)	
Plaintiff,	)	
	)	
v.	)	MAGISTRATE JUDGE
	)	JONATHAN D. GREENBERG
TORRIS MOORE, <i>et al.</i> ,	)	
	)	
Defendants.	)	<b>ORDER</b>
	)	

This case is before the Court upon consent of the parties, entered June 30, 2017. (Doc. No. 12.) Currently pending is the Joint Motion of Plaintiff Water Derrico and Defendant City of East Cleveland to Stay the instant proceedings. (Doc. No. 21.) For the following reasons, the Motion is GRANTED as follows.

On April 22, 2017, Plaintiff Walter Derrico (“Plaintiff” or “Derrico”) filed a Complaint against Defendants City of East Cleveland and City of East Cleveland Police Department (hereinafter the “City of East Cleveland Defendants”); former East Cleveland police officers Torris Moore, Eric Jones, and Antonio Malone; the State of Ohio; “Public Official Does Nos. 1-3;” and “ABC & XYZ Insurance Carriers Providing Occurrence Coverage for Police Activities such as Identified & Verified herein.” (Doc. No. 1.) Plaintiff alleged numerous state and federal claims arising from his arrest, prosecution, and imprisonment for various drug charges. (Doc.

No. 1.) The City of East Cleveland Defendants filed an Answer on June 2, 2017, along with Cross claims against Defendants Jones, Moore, and Malone.<sup>1</sup> (Doc. No. 5.) A case management conference was thereafter conducted on June 30, 2017, at which time case management deadlines were set. (Doc. No. 11.)

Meanwhile, on June 5, 2017, Defendant State of Ohio filed a Motion to Dismiss Pursuant to Fed. R. Civ. Pr. 12(b)(1) and 12(b)(6). (Doc. No. 7.) Plaintiff did not file a response. On September 9, 2017, this Court issued a Memorandum Opinion & Order granting the State of Ohio's Motion and dismissing it from the case. (Doc. No. 14.)

The City of East Cleveland Defendants thereafter filed Motions for Summary Judgment and to Dismiss. (Doc. Nos. 16, 17). Plaintiff moved to strike both motions. (Doc. Nos. 19, 20.) Defendants opposed the Motion to Strike and, in the alternative, moved for leave to file a Motion to Dismiss. (Doc. No. 22.)

On November 3, 2017, Plaintiff and the City of East Cleveland Defendants filed a Joint Motion to Stay. (Doc. No. 21.) The motion explains as follows:

On October 27, 2017, this Court held a telephonic status conference with the Parties; and thereafter Mr. Derrico agreed to pursue relief before the Ohio Court of Claims. As this Court is aware, Mr. Derrico is first required to seek, before the Cuyahoga County Court of Common Pleas, a declaration that he was wrongfully convicted. Thereafter, Mr. Derrico may seek relief before the Ohio Court of Claims. At this juncture it is unknown the length of time it will take to resolve this matter before the Ohio Court of Claims. Therefore, this Court is respectfully urged that a stay of this matter, be provided by Order of this Court.

*(Id.)*

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<sup>1</sup> The Court notes Defendants Moore, Jones, and Malone have not entered an appearance in this case. None of these Defendants have answered or otherwise responded to either the Complaint or the City of East Cleveland's Cross claims. Moreover, neither Defendant Moore, Jones or Malone filed a response to the instant Joint Motion to Stay.

Upon review, the Joint Motion to Stay is granted to allow Plaintiff to pursue relief before the Ohio Court of Claims. The stay is granted on the condition, however, that Plaintiff (1) initiate proceedings in state court within thirty (30) days of this Order; and (2) file monthly status reports in this Court regarding the progress of his state court proceedings, with the first status report to be filed no later than thirty (30) days from the date of this Order.

Accordingly, the Joint Motion to Stay (Doc. No. 21) is GRANTED as set forth above. As this matter is stayed, the following motions are denied without prejudice subject to refiling once the stay is lifted: (1) Defendants' Motions for Summary Judgment (Doc. No. 16); (2) Defendants' Motion to Dismiss (Doc. No. 17); (3) Plaintiff's Motion to Strike Defendants' Motion to Dismiss (Doc. No. 19); (4) Plaintiff's Motion to Strike Defendants' Motion for Summary Judgment (Doc. No. 20); and (5) Defendant's Motion in the alternative for Leave to file Motion to Dismiss (Doc. No. 22).

**IT IS SO ORDERED.**

Date: December 7, 2017

s/ Jonathan D. Greenberg  
Jonathan D. Greenberg  
U.S. Magistrate Judge